

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff

v.

LIFE CARE CENTERS OF AMERICA,  
INC. AND SOUTH HILL OPERATIONS  
LLC d/b/a LIFE CARE CENTER OF  
SOUTH HILL,

Defendants.

CIVIL ACTION NO. 2:18-cv-01411

COMPLAINT

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex (female/pregnancy), and to provide appropriate relief to Nair Parsons and a class of similarly situated female employees in Washington who were adversely affected by such practices. The Equal Employment Opportunity Commission (“EEOC”) alleges that Life Care Centers of America, Inc. and South Hill Operations LLC (“Defendants”) d/b/a Life Care Center of South Hill in Puyallup, Washington subjected Parsons and a class of similarly situated female employees in Washington to disparate treatment in violation of Title VII by refusing to accommodate their pregnancy related lifting restrictions, while accommodating other non-pregnant employees who were similar in their ability or inability to work. Because Defendants refused to accommodate Parsons

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1 and she was told to reapply in order to return to work, she was constructively discharged in  
2 violation of Title VII.

3 JURISDICTION AND VENUE

4 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,  
5 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of  
6 Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII"), and  
7 pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.  
8

9 2. The employment practices alleged to be unlawful were committed within the  
10 jurisdiction of the United States District Court for the Western District of Washington.  
11

12 PARTIES

13 3. Plaintiff, the Equal Employment Opportunity Commission, is the agency of the  
14 United States of America charged with the administration, interpretation and enforcement of  
15 Title VII and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title  
16 VII, 42 U.S.C. 2000e-5(f)(1).  
17

18 4. At all relevant times, Defendant Life Care Centers of America, Inc. ("LCCA")  
19 has been a Tennessee corporation continuously doing business in the State of Washington and  
20 has continuously employed at least fifteen (15) employees.  
21

22 5. At all relevant times, Defendant LCCA has continuously been an employer  
23 engaged in an industry affecting commerce under Sections 701(b), (g) and (h) of Title VII, 42  
24 U.S.C. §§ 2000e(b), (g) and (h).  
25

1           6.       At all relevant times, Defendant South Hill Operations LLC (“SHO”) has been a  
2 Tennessee corporation continuously doing business in the State of Washington and has  
3 continuously employed at least fifteen (15) employees.

4           7.       At all relevant times, Defendant SHO has continuously been an employer engaged  
5 in an industry affecting commerce under Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§  
6 2000e(b), (g) and (h).

7           8.       On information and belief, the two Defendants named in this action have operated  
8 as an integrated business enterprise, and each Defendant had at least fifteen (15) employees on a  
9 continual basis.

10          9.       Facts establishing the existence of an integrated business enterprise include, but  
11 are not limited to, the following:

- 12           a.       Forrest L. Preston (“Preston”) is founder and 100% owner of Defendant LCCA;  
13           b.       LCCA owned and operated about 77 geriatric health care service providers  
14                   (“nursing homes”) directly at all relevant times;  
15           c.       Preston owned and operated about 159 nursing homes through a series of 100 or  
16                   so partnerships and corporations;  
17           d.       Preston and LCCA have conceded in other litigation brought against them by the  
18                   U.S. Department of Justice that they control over 236 nursing homes nationwide  
19                   through a network of current and former subsidiaries, divisions, affiliates, brother  
20                   and sister corporations, companies, and partnerships, and in its capacity as a joint  
21                   venture participant and its capacity as an owner, operator or manager including  
22                   the South Hill facility through SHO;  
23           e.       Defendant SHO lists Preston as its agent and principal;

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- f. Defendants share a common physical address, 3570 Keith Street NW, Cleveland, TN, 37312;
- g. Defendants share a common mailing address, 3570 Keith Street NW, Cleveland, TN, 37312;
- h. Defendants' operations are interrelated as Defendants operate out of the same facility and on information and belief share employees;
- i. On information and belief, Defendants have common financial control;
- j. At all relevant times, Defendants shared common management; and
- k. Centralized control of labor for Defendants rests with Defendant LCCA.

#### ADMINISTRATIVE PROCEDURES

10. More than thirty (30) days prior to the institution of this lawsuit, Charging Party Nair Parsons filed Charge No. 551-2016-01760C with the EEOC alleging violations of Title VII by Defendants LCCA and SHO d/b/a Life Care Center of South Hill. The EEOC investigated Parsons's EEOC Charge, and notified Defendants in January 2017 and March 2017 that the geographic scope of the investigation included all of their employees in Washington State. Defendants responded to Ms. Parson's EEOC charge, including the EEOC's March 9, 2017 subpoena for all records of employees in Washington State. The EEOC issued Defendants a Letter of Determination on June 7, 2018 finding reasonable cause to believe Title VII was violated with regard to Parsons and a class of similarly situated female employees, and invited Defendants to explore informal methods of conciliation to eliminate the unlawful employment practices and to provide appropriate relief. The EEOC then communicated with Defendants to describe appropriate remedies for the discriminatory practices described in the EEOC's Letter of

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1 Determination. The EEOC was unable to secure a conciliation agreement from Defendants that  
2 was acceptable to the Commission. On July 16, 2018, the EEOC issued a Notice of Failure of  
3 Conciliation to Defendants. All conditions precedent to the institution of this lawsuit have been  
4 fulfilled.

5  
6 STATEMENT OF CLAIMS

7  
8 11. Since at least June 15, 2016, Defendants have engaged in unlawful employment  
9 practices at their South Hill facility in Puyallup, Washington ("South Hill") in violation of  
10 Section 703(a) of Title VII, 42 U.S.C. § 2000(e)-(2)(a), by refusing to accommodate the  
11 pregnancy-related work restrictions of Parsons while accommodating the work restrictions of  
12 non-pregnant employees similar in their ability or inability to work. Parsons was affected by  
13 said unlawful employment practices.

14 12. Parsons began her employment with Defendants as a Certified Nursing Assistant  
15 ("CNA") in or about November 2015.

16  
17 13. Parsons notified Defendants on or about June 14, 2016 that she was seven months  
18 pregnant, and provided them with a doctor's note which indicated that she was limited from  
19 lifting more than fifteen (15) pounds for the remainder of her pregnancy.

20 14. Defendants did not request that Parson supply any more medical information or  
21 documentation related to her pregnancy on or after June 14, 2016.

22 15. Defendants' Director of Nursing and Assistant Director of Nursing informed  
23 Parsons on June 15, 2016 that Defendants do not accommodate pregnant employees with light  
24 duty, but only accommodate employees who are injured on the job.  
25

1           16. Defendants' Director of Nursing also informed Parsons during the June 15, 2016  
2 meeting that she could take unpaid leave until her doctor removed her lifting restriction, that  
3 Parsons could reapply for a CNA job after she was ready to return to work following her  
4 maternity leave but that there was no guarantee that a CNA job would be available.

5           17. Defendants then placed Parsons on involuntary, unpaid leave starting on June 15,  
6 2016.

7           18. Defendants forced Parsons to resign involuntarily because of her pregnancy-  
8 related lifting restriction.  
9

10          19. At all relevant times going back to at least September 21, 2015, Defendants have  
11 owned or operated twenty-three (23) facilities in Washington including South Hill in Puyallap  
12 and: (1) Alderwood; (2) Auburn; (3) Bothell; (4) Burien; (5) Cascade Park; (6) Cottesmore; (7)  
13 Federal Way; (8) Garden Terrace (Federal Way); (9) Hallmark Manor; (10) Islands (San Juan  
14 Islands); (11) Kah Tai (Port Townsend); (12) Kennewick; (13) Lake View (Kirkland); (14)  
15 Marysville; (15) Mount Vernon; (16) Ocean View; (17) Port Orchard; (18) Puyallup; (19)  
16 Richland; (20) Ritzville; (21) Skagit Valley; and (22) West Seattle.  
17

18          20. At all relevant times going back to at least September 21, 2015, Defendants have  
19 had and continue to have a policy or practice at its twenty-three (23) facilities in Washington of  
20 regularly accommodating non-pregnant employees who have work restrictions similar to  
21 Parsons's under circumstances in which the non-pregnant employees' restrictions are caused by  
22 work place injuries. Defendants' employees who are injured on the job are provided with light  
23 duty or other job modifications under Defendants' policy or practice, but employees with similar  
24 restrictions caused by a pregnancy related medical condition are not provided light or modified  
25 duty.

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1           21.     The effect of the practices complained of in paragraphs 11-20 above has been to  
2     deprive Parsons and a class of similarly situated female employees in Washington of equal  
3     employment opportunities and otherwise adversely affect their status as employees because of  
4     their sex (female), pregnancy or related medical condition.

5           22.     The unlawful employment practices complained of in paragraphs 11-20 were and  
6     are intentional.

7           23.     The unlawful employment practices complained of in paragraphs 11-20 above  
8     were done with malice or with reckless indifference to the federally protected rights of Parsons  
9     and a class of similarly situated female employees.  
10

11                               PRAYER FOR RELIEF

12           Wherefore, the Commission respectfully requests that this Court:

13           A.     Grant a permanent injunction enjoining Defendants, its officers, agents,  
14     successors, assigns, and all persons in active concert or participation with it, from unlawfully  
15     failing to provide equal employment opportunities to employees because of their sex (female),  
16     pregnancy or related medical conditions, and any other employment practice which discriminates  
17     on the basis of sex (female), pregnancy or related medical conditions.  
18

19           B.     Order Defendants to institute and carry out policies, practices, and programs  
20     which provide equal employment opportunities for employees because of their sex (female),  
21     pregnancy or related medical conditions, and which eradicate the effects of its past and present  
22     unlawful employment practices.  
23

24           C.     Order Defendants to make whole Nair Parsons, and each similarly situated female  
25     employee, by providing appropriate back pay with prejudgment interest, in amounts to be

1 determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful  
2 employment practices.

3 D. Order Defendants to make whole Nair Parsons, and each similarly situated female  
4 employee, by providing compensation for past and future pecuniary losses resulting from the  
5 unlawful employment practices described in paragraphs 11-20 above, including past and future  
6 out-of-pocket losses, in amounts to be determined at trial.

7 E. Order Defendants to make whole Nair Parsons, and each similarly situated female  
8 employee, by providing compensation for past and future non-pecuniary losses resulting from  
9 the unlawful practices complained of in paragraphs 11-20 above, including emotional pain,  
10 suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined  
11 at trial.

12 F. Order Defendants to pay Nair Parsons, and each similarly situated female  
13 employee, punitive damages for its malicious and reckless conduct, as described in paragraphs  
14 11-31 above in amounts to be determined at trial.

15 G. Grant such further relief as the Court deems necessary and proper in the public  
16 interest.

17 H. Award the Commission its costs of this action.

18  
19  
20  
21 DATED this 25th day of September, 2018.

22  
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24  
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